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S E C R E T STATE 125632

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E.O. 12958: DECL: 11/26/2018

TAGS: PARM NATO MOPS PREL IT SP

SUBJECT: DEMARCHE TO ITALY, SPAIN, AND QATAR REGARDING CONVENTION ON CLUSTER MUNITIONS

REF: A. STATE 125608

1B. STATE 125512

Classified By: PM A/S Mark T. Kimmitt for Reasons: 1.4 (b) and (d)

11. (U) This is an action request; see para 3.

12. (S) Summary: On December 3, the Convention on Cluster Munitions (CCM) will be opened for signature in Oslo, Norway. The United States will neither sign this Convention nor participate as an observer, although many of our allies and partners will sign this Convention. Depending on implementation of the CCM, in particular interpretation of Article 21, which permits interoperability between State Parties to the CCM and those that are not, this could cause constraints on the ability of U.S. military forces to store cluster munitions on or transit through the territories of States Parties, or to undertake combined operations with partner militaries. The Department requests Embassies Madrid and Rome clarify their respective host government positions on this issue with the aim of preserving interoperability and ensuring that the U.S. be consulted bilaterally before host government takes steps that would impact military cooperation with U.S. military forces. Italy, Spain, and Qatar are of particular concern because they are states in which the U.S. stores cluster munitions. The U.S. is prepared to travel to Rome or Madrid to consult on these issues during the second week in December. Embassy Doha reports Qatar may be unaware of U.S. cluster munitions stockpiles in the country and recommends the Department not approach the host government at this time. The Department concurs and provides the following on an "if raised" basis for Embassy Doha. End Summary.

OBJECTIVES:

13. (C/REL ESP, ITA, QAT) If Italy, Spain, or Qatar embrace a narrow interpretation of Article 21 or, for political reasons, request removal of U.S. cluster munitions, it could result in serious consequences for U.S. military operations and planning. Embassies Rome and Madrid should pursue the following objectives with host nation governments to confirm that interpretation of Article 21 will permit continued interoperability for combined operations. The Department does not know whether Qatar will sign the CCM on December 3, but is relatively certain that Italy and Spain will. Posts may draw on more detailed information on CCM and the U.S. policy in reftels and background below for these discussions.

FOR DOHA:

-- Post should pursue the objectives below only if approached by the host nation government regarding U.S. cluster munitions stockpiles in Qatar. Post may draw on Ref A for general questions related to U.S. cluster munitions policy and the CCM.

FOR MADRID AND ROME:

-- Confirm whether host nation government intends to sign the CCM.

-- Explain that while the United States shares concerns about the potential unintended harm to civilians cluster munitions can cause, the United States is not in a position to sign the CCM at this time because of defense requirements and far-ranging security commitments. However, the U.S. is taking technical steps to reduce the potential unintended harm to civilians from cluster munitions, and will continue to work to finalize a protocol in the framework of the Convention on Certain Conventional Weapons (CCW) that would require states to phase in technical improvements to cluster munitions over time, minimizing the potential humanitarian impact of their use.

-- Note U.S. appreciation for the inclusion of Article 21 in the CCM text. Convey our expectation that this provision will allow military forces of both countries to continue to conduct a broad range of combined operations where cluster munitions may be used, as well as allow storage and transfer of U.S. cluster munitions on the host nation's territory.

-- Note that the NATO Military Committee advice of October 2 confirms that interoperability is protected.

-- Request information about host nation government's intentions regarding ongoing U.S. storage and transit of cluster munitions.

-- Note that if host nation government has serious concerns on this issue, an interagency team of experts is prepared to hold bilateral consultations. (A team led by PM DAS Stephen Ganyard will be in Europe the week of December 8 and is available for consultations except for December 9).

-- Encourage host nation government not to take any action that would undermine maintaining flexibility to reach an understanding on this issue.

14. (C) Background: On December 3, the CCM will be open for signature in Oslo, Norway. To the best of the Department's knowledge, both Italy and Spain intend to sign the CCM. Unlike other potential signatory states (Germany, Japan, UK) where U.S. military forces store cluster munitions, Italy, Spain, and Qatar have not yet approached the Department or DoD on this issue. The CCM includes provisions in Article 21 that permit States Parties to the CCM conduct coalition operations with states that are not CCM signatories. From a legal perspective this could include transit, storage, and other activities that support military operations carried out by another state, and therefore the treaty does not require States Parties to insist on removal of cluster munitions stored by non-State Parties. The text of the CCM can be found at [www.stopclustermunitions.org/the-solution/the-treaty/](http://www.stopclustermunitions.org/the-solution/the-treaty/) .

15. (C) MADRID/ROME: Following the conclusion of the Ottawa Convention on Anti-Personnel Landmines (APL) multiple consultations on these types of issues were required, and a team traveled to each capital several times. That convention does not contain any provision similar to Article 21 on interoperability; in the end all U.S. APL had to be removed from Italy and Spain. Rome

should note that cluster munitions are stored at Aviano and Camp Darby. Similar information is not available for Spain at this time.

¶6. (S) DOHA: The U.S. stores cluster munitions in Qatar. Post reports that it is unknown whether Qatar is aware that U.S. cluster munitions are stored there. Post suspects that if Qatar does sign the treaty, the Qataris would want to ensure no cluster munitions are stored there, though to Post's knowledge this is not something the U.S. has ever discussed with Doha. The U.S. would need to make a direct inquiry to determine if Qatar is going to sign and to discover Qatari intentions. Post anticipates Qatar would request removal of cluster munitions if Qatar signed and were aware of U.S. stocks. A demarche at this time is not recommended.

¶7. (U) For more information please contact Katherine Baker (202-663-0104) or Sho Morimoto (202-663-0290) in PM/WRA.

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